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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/863,586	05/16/2001	Kenneth C. Leighley	35669/148330	9880

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EXAMINER

JOHNSTON, PHILLIP A

ART UNIT	PAPER NUMBER
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2881

DATE MAILED: 03/13/2003

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

09/863,586

Applicant(s)

LEIGHLEY ET AL.

Examiner

Phillip A Johnston

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☐ Responsive to communication(s) filed on ____.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-22 is/are pending in the application.
- 4a) Of the above claim(s) ____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) ____ is/are allowed.
- 6) ☒ Claim(s) 1-22 is/are rejected.
- 7) ☐ Claim(s) ____ is/are objected to.
- 8) ☐ Claim(s) ____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 16 May 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on ____ is: a) ☐ approved b) ☐ disapproved by the Examiner.
- If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

Priority under 35 U.S.C. §§ 119 and 120

- 13) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
 - ☐ Certified copies of the priority documents have been received in Application No. ____.
 - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).
- * See the attached detailed Office action for a list of the certified copies not received.
- 14) ☒ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).
- a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) ____.
- 4) ☐ Interview Summary (PTO-413) Paper No(s). ____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other:

Detailed Action

Claims Rejection – 35 U.S.C. 103

1. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which the subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

2. Claims 1-22 are rejected under 35 U.S.C. 103(a) as being unpatentable over U.S. Patent No. 5,920,075 to Whitehead, in view of Borovzky U.S. Patent No. 5,144,144.

Whitehead (075) discloses an apparatus for FIG. 2 presents a perspective top view of the hand-held sterilization device of the invention. The device 5 in FIG. 2 includes a housing 10, a handle 20 coupled to the housing, and a power cord 40 that may be connected to a power source. The device 5 in FIG. 2 further includes an electronic safety mechanism 50. The electronic safety mechanism 50 includes a switch lock 60 actuated by a key 65. The electronic safety mechanism 50 also includes a digital lock circuit made up of a numerical or alphabetical keypad 70 wherein a required numerical or alphabetical code is needed to open or turn on the power to the digital lock circuit. See Column 3, line 56-65

Whitehead (075) also discloses The device 5 shown in FIG. 4 includes a retractable hood 120 that is a pair of doors that open to reveal the ultraviolet light source, as recited in Claims 19-22. In FIG. 4, the doors are opened by actuating a key lock 130. The key lock is actuated by a key 65. The key 65 is the same key that actuates the switch lock on the electronic safety mechanism in FIG. 2. Thus, the invention contemplates that the same key 65 is used to expose the ultraviolet light source and to turn the light source on. The hood 120 doors are pivotably coupled to the housing by hinges 140 extending the length of the device housing 10. When the device 5 is operated and the UV radiation directed at the area to be sterilized, the hood doors are open and do not interfere with the path of the UV radiation. See Column 4, line 29-42.

It is implied herein, that the use of a key pad and a key to actuate the switch lock, and turn the light source on in accordance with Whitehead (075) above, is equivalent to the use of a "tool engaging portion to engage an activation tool, and a means for preventing finger access", as recited in Claims 1-3, 12-14, and 16-22.

Whitehead (075) as applied above does not disclose the use of a "degermination chamber for receiving objects to be sterilized by the UV lamp", as recited in Claims 7-11, and 15. However, Borovsky (144) discloses a disinfecting system for contact lens' that includes an upper housing portion 1, which contains a germicidal ultraviolet (UV) lamp, and a lower base portion which accommodates a cleaning and disinfecting chamber and electronic control circuit for the system. An indicator light 3 is provided to indicate the operation of the unit during a cleaning cycle. See Column 3, line 30-35.

Borovsky (144) also teaches that the user first places the contact lenses in the lens holding portions 14a, 14b of the lens holder 14, and mounts the lens holder in the cleaning/disinfecting chamber 15-16 of the base portion 2. Saline solution is filled in the chamber to a designated fill line, for example, a volume of about 20 ml is sufficient for the dimensions of the unit indicated. The upper housing portion 1 is then fitted onto the base portion 2, with the contact prong 22 being inserted in the port opening 13 and positioned in electrical contact with the UV lamp contact 12. Requiring placement of the upper housing on the base portion before electrical contact for the UV lamp can be made provides a switch interlock safety feature for the system.

Therefore it would have been obvious to one of ordinary skill in the art that Whitehead's (075) ultraviolet sterilization apparatus and method can be modified to use the degermination chamber in accordance with Borovsky (144), thereby providing a hand-held device that supplies sufficient intensity to a surface or object to destroy most pathogens or microorganisms, while the UV light source is shielded to prevent direct or reflected UV light from striking humans.

Conclusion

3. Any inquiry concerning this communication or earlier communications should be directed to Phillip Johnston whose telephone number is (703) 305-7022. The examiner can normally be reached on Monday-Friday from 7:30 am to 4:00 pm. If attempts to reach the examiner by telephone are unsuccessful, the examiners supervisor John Lee


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can be reached at (703) 308-4116. The fax phone numbers are (703) 872-9318 for regular response activity, and (703) 872-9319 for after-final responses. In addition the customer service fax number is (703) 872- 9317.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is 703 308 0956.

PJ

March 6, 2003


JOHN R. LEE
SUPERVISORY PATENT EXAMINER
TECHNOLOGY CENTER 2300